

HOUSE BILL 301

E4

5lr1268
CF 5lr1415

By: **Delegates Carter, Anderson, Atterbeary, Campos, Conaway, Glenn, Moon, Morales, Rosenberg, Smith, Waldstreicher, and M. Washington**

Introduced and read first time: February 4, 2015

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Segregated Confinement – Report**

3 FOR the purpose of requiring the Department of Public Safety and Correctional Services
4 to make an annual report on segregated confinement to the Governor; requiring
5 certain information be included in the report; defining certain terms; making
6 provisions of this Act severable; and generally related to segregated confinement.

7 BY adding to

8 Article – Correctional Services

9 Section 2–601 and 2–602 to be under the new subtitle “Subtitle 6. Segregated
10 Confinement Report”

11 Annotated Code of Maryland

12 (2008 Replacement Volume and 2014 Supplement)

13 Preamble

14 WHEREAS, The rate of segregated confinement in Maryland is approximately 8.5
15 percent, which is significantly higher than most other states; and

16 WHEREAS, The Vera Institute of Justice report produced findings and made
17 recommendations for improving the use of segregated confinement by the Department of
18 Public Safety and Correctional Services; and

19 WHEREAS, The Department has not produced a formal public response to the
20 findings and recommendations of the Vera Institute of Justice report; and

21 WHEREAS, A longitudinal account is necessary to identify patterns of use and
22 misuse of segregated confinement, but there is currently no requirement for the
23 Department to report its use of segregated confinement on an ongoing basis; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, The lack of uniformity in the use of segregated confinement is cause for
2 concern because offenders are disciplined differently for similar offenses; and

3 WHEREAS, The misuse of segregated confinement has a number of negative
4 consequences, including a profoundly deleterious effect on mental function caused by
5 isolation and the severe restriction of environmental and social stimulation; and

6 WHEREAS, Insufficient mental health and special needs resources increase the size
7 of the segregated population, which creates an additional burden on staff and erodes the
8 level of attention segregated inmates receive; and

9 WHEREAS, The United Nations Special Rapporteur on Torture has defined
10 long-term confinement as 14 days or more; now, therefore,

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
12 That the Laws of Maryland read as follows:

13 **Article – Correctional Services**

14 **SUBTITLE 6. SEGREGATED CONFINEMENT REPORT.**

15 **2-601.**

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (B) “CORRECTIONAL FACILITY” MEANS A FACILITY OPERATED BY OR
19 UNDER CONTRACT WITH THE DEPARTMENT FOR THE PURPOSE OF DETAINING OR
20 CONFINING ADULTS WHO ARE CHARGED WITH OR FOUND GUILTY OF A CRIME.

21 (C) (1) “SEGREGATED CONFINEMENT” MEANS PROLONGED CELL
22 CONFINEMENT OF 22 HOURS OR MORE PER DAY, WHETHER PURSUANT TO
23 DISCIPLINARY, ADMINISTRATIVE, OR CLASSIFICATION ACTION.

24 (2) “SEGREGATED CONFINEMENT” INCLUDES:

25 (I) HOUSING REFERRED TO AS DISCIPLINARY SEGREGATION,
26 ADMINISTRATIVE SEGREGATION, PROTECTIVE CUSTODY, SPECIAL HOUSING,
27 SUPER-MAXIMUM SECURITY HOUSING, RESTRICTED HOUSING, AND RESTRICTED
28 PROGRAMMING; AND

29 (II) ANY OTHER TERMINOLOGY USED TO DESCRIBE THE
30 SEPARATION OF INMATES FROM THE GENERAL PRISON POPULATION, INCLUDING
31 ISOLATION, ISOLATED CONFINEMENT, AND SOLITARY CONFINEMENT.

1 **2-602.**

2 (A) ON OR BEFORE NOVEMBER 1 OF EACH YEAR, THE DEPARTMENT SHALL
3 SUBMIT A REPORT TO THE GOVERNOR DOCUMENTING THE USE OF SEGREGATED
4 CONFINEMENT BY CORRECTIONAL FACILITIES.

5 (B) EACH REPORT SHALL INCLUDE THE FOLLOWING INFORMATION,
6 DISAGGREGATED BY MONTH AND FACILITY:

7 (1) THE NUMBER OF INMATES:

8 (I) HELD IN SEGREGATED CONFINEMENT;

9 (II) HELD IN SEGREGATED CONFINEMENT WHO WERE:

10 1. UNDER 21 YEARS OF AGE AT THE TIME;

11 2. UNDER 18 YEARS OF AGE AT THE TIME; AND

12 3. OLDER THAN 60 YEARS OF AGE AT THE TIME;

13 (III) RELEASED FROM SEGREGATED CONFINEMENT; AND

14 (IV) RELEASED FROM SEGREGATED CONFINEMENT DIRECTLY
15 INTO THE COMMUNITY;

16 (2) FOR EACH INMATE HELD IN SEGREGATED CONFINEMENT:

17 (I) THE LENGTH OF TIME THAT THE INMATE SPENT IN
18 SEGREGATED CONFINEMENT, FOR EACH SEPARATE STAY IN SEGREGATED
19 CONFINEMENT;

20 (II) THE REASON THE INMATE WAS BEING HELD IN SEGREGATED
21 CONFINEMENT;

22 (III) THE INMATE'S RACE, AGE, AND GENDER;

23 (IV) IF SELF-REPORTED AND DIFFERENT FROM THE INMATE'S
24 SEX AT BIRTH, THE INMATE'S GENDER IDENTITY;

25 (V) IF SELF-REPORTED, THE INMATE'S SEXUAL ORIENTATION;

1 (VI) THE MENTAL HEALTH STATUS OF THE INMATE, INCLUDING
2 WHETHER THE INMATE SUFFERS FROM MENTAL ILLNESS, DEVELOPMENTAL DELAY,
3 OR TRAUMATIC BRAIN INJURY;

4 (VII) IF THE INMATE SUFFERS FROM A MENTAL HEALTH
5 CONDITION, THE TREATMENT PLAN THAT WAS IMPLEMENTED FOR THAT INMATE;

6 (VIII) ANY HEARINGS, PROCEDURES, ASSESSMENTS, AND
7 DETERMINATIONS MADE THAT THE INMATE SHOULD BE REMOVED FROM OR REMAIN
8 IN SEGREGATED CONFINEMENT; AND

9 (IX) THE AMOUNT OF OUT-OF-CELL TIME, EXERCISE,
10 PROGRAMS, SERVICES, CARE, AND TREATMENT PROVIDED TO THE INMATE;

11 (3) THE NUMBER OF INMATES HELD IN SEGREGATED CONFINEMENT:

12 (I) FOR MORE THAN 154 HOURS IN A SINGLE WEEK; AND

13 (II) FOR MORE THAN 1 YEAR;

14 (4) INCIDENTS OF SELF-HARM AND ATTEMPTED SELF-HARM BY
15 INMATES HELD IN SEGREGATED CONFINEMENT;

16 (5) INCIDENTS OF DEATH OF INMATES HELD IN SEGREGATED
17 CONFINEMENT;

18 (6) COMPLAINTS OF ABUSE LODGED:

19 (I) AGAINST INMATES HELD IN SEGREGATED CONFINEMENT;

20 AND

21 (II) BY INMATES HELD IN SEGREGATED CONFINEMENT;

22 (7) THE NUMBER OF INCIDENTS IN WHICH FORCE WAS USED AGAINST
23 AN INMATE IN SEGREGATED CONFINEMENT;

24 (8) A DESCRIPTION OF PROCEDURES IMPLEMENTED TO ENSURE
25 UNIFORMITY IN THE USE OF SEGREGATED CONFINEMENT;

26 (9) THE ANNUAL AVERAGE COST PER CAPITA OF HOUSING INMATES
27 IN SEGREGATED CONFINEMENT COMPARED TO THE COST PER CAPITA OF HOUSING
28 INMATES IN THE GENERAL POPULATION;

1 **(10) THE NUMBER OF STAFF ASSIGNED TO EACH CLASSIFICATION OF**
2 **INMATE;**

3 **(11) A DESCRIPTION OF ALTERNATIVE SANCTIONS IMPOSED FOR RULE**
4 **VIOLATIONS, THEIR INCIDENCE OF USE, THE REASON FOR THEIR USE, AND THE**
5 **LENGTH OF IMPLEMENTATION;**

6 **(12) A DESCRIPTION OF MEASURES TAKEN TO ENSURE THAT**
7 **DISCIPLINARY SENTENCE LENGTHS COMPLY WITH SENTENCING GUIDELINES;**

8 **(13) A DESCRIPTION OF EFFORTS MADE TO MONITOR SENTENCING**
9 **PATTERNS AND JUSTIFICATIONS FOR OVERRIDES;**

10 **(14) A DESCRIPTION OF EFFORTS MADE TO REDUCE THE USE OF**
11 **DISCIPLINARY SEGREGATION;**

12 **(15) AN EXAMINATION OF WHETHER SEGREGATED CONFINEMENT IS**
13 **USED FOR 400-LEVEL VIOLATIONS AS THEY ARE DEFINED BY THE CODE OF**
14 **MARYLAND REGULATIONS;**

15 **(16) INFORMATION ON WHETHER PROTECTIVE CUSTODY INMATES ARE**
16 **HOUSED IN ADMINISTRATIVE SEGREGATION;**

17 **(17) A DESCRIPTION OF ANY EFFORTS MADE TO ENSURE THAT**
18 **SUFFICIENT, APPROPRIATE HOUSING, PROCEDURES, AND PROGRAMMING ARE**
19 **AVAILABLE FOR ALL CATEGORIES OF INMATE; AND**

20 **(18) FOR INMATES WITH MENTAL ILLNESS, DEVELOPMENTAL DELAYS,**
21 **OR TRAUMATIC BRAIN INJURY:**

22 **(I) WHETHER ADMINISTRATIVE AND SEGREGATED**
23 **CONFINEMENT CRITERIA HAVE BEEN REVISED TO MAINTAIN INMATES WITH MENTAL**
24 **ILLNESS, DEVELOPMENTAL DELAYS, AND TRAUMATIC BRAIN INJURIES IN SPECIAL**
25 **MANAGEMENT UNITS IN THE GENERAL POPULATION, INSTEAD OF ADMINISTRATIVE**
26 **OR SEGREGATED CONFINEMENT;**

27 **(II) A DESCRIPTION OF EFFORTS MADE TO INCREASE MENTAL**
28 **HEALTH AND SOCIAL WORK STAFF ACROSS FACILITIES; AND**

29 **(III) A DESCRIPTION OF TRAININGS CONDUCTED FOR STAFF**
30 **INTERACTING WITH MENTALLY ILL OR SPECIAL NEEDS INMATES.**

1 **(C) THE REPORT DESCRIBED IN SUBSECTION (B) OF THIS SECTION SHALL**
2 **USE CODE OR IDENTIFICATION NUMBERS TO PROTECT THE IDENTITY OF INMATES.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
4 the application thereof to any person or circumstance is held invalid for any reason in a
5 court of competent jurisdiction, the invalidity does not affect other provisions or any other
6 application of this Act that can be given effect without the invalid provision or application,
7 and for this purpose the provisions of this Act are declared severable.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2015.